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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,645	01/30/2001	Ian Dryburgh	1487.0050003	1606

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EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/771,645

Applicant(s)

DRYBURGH ET AL.

Examiner

Anthony D Barfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/529,218
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11, 12
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 46 and 66 are rejected under 35 U.S.C. 102(b) as being anticipated by Crawford et al. Crawford et al. shows the conventional use of a seat (52) and reclinable back (48) within a fixed housing (12). Crawford further shows a leg support (54) that is driveable between a retracted and supporting portion. Crawford et al further teaches the use of a drive means comprising an electric motor (148) for driving a trolley (72,107) that has a member (72) which extends away from a seat portion. Applicant should note that the seating unit of Crawford et al., can inherently be used within an aircraft cabin upon securing thereof, as a gurney or wheelchair may be stored within an aircraft cabin, therefore constituting an aircraft cabin seating unit.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 46-51 and 66-67 are rejected under 35 U.S.C. § 103 as being unpatentable over Gutridge et al. in view of Crawford et al.

Applicant should note that the seating unit of Gutridge et al., can inherently be used within an aircraft cabin as the seating unit may be stored within an aircraft cabin, therefore constituting an aircraft cabin seating unit. Gutridge et al. discloses an accommodating unit with a primary seat (23), and a secondary unit (23) positioned in front thereof, and including a surface (24), as shown in Figure 3. The primary seat has a reclinable back portion (25) connected to a moveable seating portion (24). Gutridge et al. shows the back portion reclining within a fixed structure or housing (10) with a support (12) and the use of a privacy screen (14). The accommodation unit further comprises a retractable table (20) and storage space (see Figures 1 and 4). A trolley (45) comprises a member extending away from the seating portion to contact a support surface (38). The trolley is connected to a drive means (44,47) for driving the trolley to move said seating portion forward and backward between a retracted and an extended position. The accommodation unit further comprises a back guiding means (26,30) formed thereon in order to form a substantially flat surface with the seating portion, which has a seat guiding means (37,37'). Gutridge et al fails to show a leg support driveable between a retracted and supporting position. Crawford et al shows the conventional use of a leg support (54) that is driveable between a retracted and supporting portion. Crawford et al further teaches the use of a drive means comprising an electric motor (148) for driving a trolley (72,107) that has a member (72) which extends away from a seat portion. It would have been obvious to one of ordinary skill in the art the time of the invention to modify the primary seat of the seat accommodation unit of Gutridge et al with a retractable leg support and drive means, as shown by Crawford et al., in

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order to provide an easier adjustment between an upright and reclined positions and increase the sleeping surface for a user.

5. Claims 52-57 as best understood are rejected under 35 U.S.C. § 103 as being unpatentable over Gutridge in view Crawford et al as applied to claim 46 above and further in view of Recaro. Gutridge et al in view of Crawford et al show all of the teachings of the claimed invention except the use of a utilities unit. Recaro shows a seating unit (Figure 1) comprising a primary seat (1), with a structurally separate utilities unit (4). The utilities unit has a storage space (8), television-type monitor (9) and a table (the cup holder) extendable in front of the primary seat. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the seat unit of Gutridge et al. in view of Crawford et al. with the utilities unit, as taught by Recaro, in order to provide additional amenities along with comfort to a user.

6. Claims 58-65 as best understood are rejected under 35 U.S.C. § 103 as being unpatentable over Gutridge et al in view Crawford et al as applied to claim 46 above and further in view of Francois et al. Gutridge et al in view Crawford et al show the use of a plurality of accommodation units in a vehicle but fall to show the use of a plurality of seating units arranged in an out-board and in-board facing arrangement in an aircraft cabin. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Francois et al. shows the conventional use of a plurality of seating units in an out-board facing arrangement (Figure 5) and a plurality of seats in an in-board facing arrangement (Figure 1) while a portion of the seating units are disposed in an echelon along the opposite side of the aircraft cabin and a central section thereof.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Gutridge et al in view of Crawford et al, with the teachings of Francois et al., in order to increase the number of seating units per row.

Response to Arguments

7. In response to applicant's argument that both Crawford et al and Gutridge et al fails to disclose "*an aircraft cabin*" seating unit, a recitation of the intended use of the claimed invention must result in a **structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.** In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. The examiner contends that the above references are capable of performing the intended use as in both cases the seat backs do recline within a fixed housing. Applicant is directed again to the above rejections. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).


8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Crawford et al simply suggests the use of a leg support with a seating unit

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Examiner is of the position that addition of a leg support will not destroy the Gutridge et al reference as this teaching is old and well known in the art to one of ordinary skill in the art. Furthermore, one of ordinary skill in the art would inherently know how to modify the leg support of Crawford et al., to accommodate the seating unit, as taught by Gutridge et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Barfield whose telephone number is 703-308-2158.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.


Anthony D Barfield
Primary Examiner
Art Unit 3636

adb
July 14, 2003